

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2009-20027

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 10, 2009

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on June 10, 2009.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and three month sanction upon the claimant for noncompliance with work-related activities?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Claimant was an FIP recipient in Genesee County.
- (2) On 3-16-09, claimant was referred to triage for a failure to meet required job search hours with the JET program, as well as a failure to attend during the previous weeks.

(3) Claimant was allegedly not turning in required job logs, and was not meeting her required hours of work participation.

(4) Claimant was given credit for 8 hours of participation during the month of February, 2009, and 8 hours participation for the three weeks of March, 2009 proceeding the triage referral.

(5) On 3-26-09, claimant was sent a DHS-2444, Notice of Noncompliance, which scheduled a triage for 4-2-09, at 1:00pm.

(6) Claimant attended the triage and a determination of no good cause was made.

(7) This is claimant's second alleged incident of noncompliance.

(8) At the triage claimant offered proof that she had moved during the first week of March.

(9) Claimant alleged at the triage that she had completed all assignments during the month of February, and that JET had lost them.

(10) Claimant's name does not appear on a sign in sheet at JET during a day she testified she had come to JET and signed in.

(11) On 4-7-09, claimant's case was sanctioned and closed.

(12) On 4-9-09, claimant requested a hearing, stating that she disagreed with the department action, and that she had not been noncompliant.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program

replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full-time must be referred to the Jobs, Education and Training (JET) Program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and to find employment. PEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. PEM 230A, p. 1. This is commonly called “noncompliance”. PEM 233A defines noncompliance as failing or refusing to, without good cause:

...Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider... PEM 233A pg. 1.

However, a failure to attend work related activities can be overcome if the client has “good cause”. Good cause is a valid reason for failing to attend employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the claimant. PEM 233A. A claim of good cause must be verified and documented. The penalty for noncompliance is FIP closure. However, for the first occurrence of noncompliance, on the FIP case, the client can be excused, with certain conditions, as outlined on a DHS-754, First Noncompliance Letter; unfortunately, this was claimant’s second alleged incident of noncompliance, and thus, she was not eligible for a DHS-754. PEM 233A.

JET participants cannot be terminated from a JET program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. At these triage

meetings, good cause is determined based on the best information available during the triage and prior to the negative action date; should a determination of no good cause be made, claimants may agree to the conditions set forth in the DHS-754 to avoid a sanction. PEM 233A.

Claimant alleges that she was compliant with work related activities, and turned in all required job logs. Claimant also alleges that she had good cause for the three weeks of missed assignments in March, because she was moving at the time.

The Administrative Law Judge has reviewed all evidence in the file and concludes that the claimant has not met her burden of proof to show that she had been compliant with work related activities.

Department records, presented as Department Exhibit 9, show that claimant was given credit for 8 hours of classroom and work-related activity in February, and 8 hours for 3 weeks in March. Claimant is required to complete 20 hours per week of work-related activities. This amount is far above the hours claimant was actually completing. This record can be rebutted if claimant provided evidence that she had good cause for not attending JET activities or completing her job search requirements, or showed that she had attended all activities. Claimant has done neither.

With regard to the hours in March, claimant has presented evidence that she met with the [REDACTED] on March 5th, met with a doctor on March 9th, and moved into her home on March 10th. The Administrative Law Judge notes that claimant was given credit for 8 hours of class room time the week of March 1st; claimant needed to be doing 20 hours of class per week, or 4 hours per day. Claimant was referred to triage on March 16th; the period of time that claimant was allegedly noncompliant composed two weeks. Therefore, assuming everything claimant has testified to was true, claimant was still short 8 hours for the week of March 1st.

No credit was given for the week of March 8th; claimant alleged she had a doctor appointment on the 9th, and moved on the 10th. The undersigned notes that, even when giving full credit for those days, claimant is still 12 hours short.

The undersigned is willing to look at claimant's situation in the best possible light; claimant was under the stress of moving and perhaps needed to do pre-moving activities and search for a home during the first week, and perhaps needed to finish moving during the second week. The Administrative Law Judge admits that claimant may have had good cause—even if she did not meet her burden of proof—for the March dates.

This however, does not address the fact that claimant was clearly noncompliant during the month of February, and has provided no evidence to rebut this.

Claimant was given 8 hours of credit for the entire month of February; 80 hours of credit would be necessary for the entire month. Claimant testified at hearing that she had attended and had been compliant; JET had lost her turned-in logs. Claimant further testified that if logs were pulled from a random day in February, her name would be on the logs. Logically speaking, if she had attended during this time, and not gotten credit for her attendance, it would add great weight to her allegations that JET had erred in recording her time. The Administrative Law Judge agreed with this proposal, and allowed claimant to submit Claimant's Exhibit 1, the sign in logs from February 2-6, 2009.

After examining the logs, the Administrative Law Judge must conclude that the logs do provide proof, but not the proof that the claimant was hoping for. Nowhere on the logs does the claimant's name appear. The Department also provided logs for a particular specialized class that was being held that week, and claimant's name does not appear. The Administrative Law Judge has reviewed the logs and is of the belief that they are complete. The logs provide direct

documentary evidence that rebuts claimant's allegations that she appeared at JET during one of the weeks in question.

As claimant has provided no evidence to rebut this documentary proof, or evidence of good cause to rebut the charge of noncompliance, the undersigned must conclude that claimant was noncompliant during the week in question, and that the actions of the Department were correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant did not have good cause for her failure to participate in work-related activities, and is therefore, noncompliant.

Accordingly, the Department's decision in the above-stated matter is, hereby,
AFFIRMED.

/s/
Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 28, 2009

Date Mailed: July 29, 2009

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

RJC/cv

cc:

